



**Statement of decision of the Private Rented Housing  
Committee under Sections 26 and 27 of the Housing  
(Scotland) Act 2006**

**prhp Ref:** PRHP/DD3/76/13

**Re:** Property at 2/1, 60 Provost Road, Dundee, DD3 8AH ("the Property")

**The Parties:-**

**JOSEPH WILLIAMSON** residing at 2/1, 60 Provost Road, Dundee, DD3 8AH ("the Tenant")

**HARJIT SIDHU** residing at 6 Muirfield Place, Dundee, DD3 8PR ("the Landlord")

**Background**

1. On 17 February 2014 the Private Rented Housing Committee ("the Committee") issued a determination which decided that the Landlord had failed to comply with the duty imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the Act"). On the same date, the Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the Property. The RSEO made by the Committee required the Landlord:-
  - (a) To carry out such works to the electrical installation and system within the Property as are required to allow the issue of an electrical installation condition report confirming that the Property meets the relevant regulations. Such works should include ensuring that the shower at the Property is in proper working order.
  - (b) To carry out such works of repair to the kitchen sink/exterior downpipe to ensure that the leak is repaired and that the repairing standard is met.
  - (c) To identify and remediate the cause of water penetration into the front elevation of the Property and to carry out any redecorative works caused by the remedial work.
  - (d) To repair the window in the bedroom to ensure that it meets the repairing standard.
  - (e) To provide new carpets to the Property for the bedroom and hall.
  - (f) To carry out such works of repair or replacement to the doors to the bedroom and bathroom sufficient to ensure that these doors can be opened and closed properly.
  - (g) To install a hardwired smoke detection system compliant with the relevant regulations.
2. The Committee had ordered in the RSEO that the works specified were to be carried out and completed within a period of two months from the date of service of the RSEO.

A first re-inspection of the Property had been carried out on 16 May 2014 by Mr Charles Reid-Thomas, the original Surveyor Member of the Committee. No works had been done to the Property at that stage. At that stage there was an allegation of racist behaviour by the Tenant and the matter was in the hands of the police. The Committee noted at that stage that the Landlord should be able to carry out the works under the RSEO without the need to personally be present and had rights to force the issue of access through the

courts if required. Nonetheless, in the circumstances, the Committee determined that an extension of three months would be given to the Landlord.

The extended period under the RSEO subsequently expired and the Committee then received correspondence from the Landlord in September 2014. The Landlord indicated that some works had been carried out but other works remained unattended to. Access had been denied by the Tenant, the Landlord alleged. The Landlord also reiterated the claim of racist behaviour by the Tenant. A letter was provided from the Crown Office and Procurator Fiscal Service confirming that the Tenant had been charged with behaving in a threatening racial manner. The Landlord sought a further extension of three months. In the circumstances the Committee was prepared to grant such an extension.

A further period elapsed with little progress appearing to be made. On 30 July 2015 the Committee (comprising Mr E K Miller, Chairman and Legal Member and Mr C Reid-Thomas, Surveyor Member) reinspected the Property. The Tenant was present and provided access. No representative of the Landlord was there, despite having been asked to attend. The Committee noted that whilst the Landlord had carried out one or two minor electrical works, no other works had been carried out. The Property was generally in the same condition as at the date of the original inspection.

At the hearing the Tenant confirmed that he had plead not guilty to the charge of racial behaviour and that the case was going to trial in August 2015. The Committee, as highlighted in the previous decision, was of the view that the alleged racial incident was not relevant to their determination. The Landlord was under an obligation to do the works and had rights available through the courts to gain access to do the works should he so require. Nonetheless, the Committee was prepared to give one final chance to the Landlord to press ahead with matters. The Committee highlighted that the Landlord should use the courts to obtain access if he required to do so. The Tenant confirmed that he would provide access as and when requested. The Committee highlighted to the Tenant that if they felt that he was not providing access and making it difficult for the Landlord then the Committee would simply grant more time to the Landlord. Conversely, if the Landlord could not show that he was making proper effort to carry out the works then the Committee would find that the Landlord had failed to comply and would impose a Rent Relief Order. The Committee encouraged both parties to work together to try and reach a resolution.

In due course on 5 November 2015 a further re-inspection was carried out by Mr Reid-Thomas, the Surveyor Member. Access was granted by Mr Williamson who was present. The Landlord was not present or represented.

The Landlord had carried out one further repair beyond some minor electrical repairs. This was in relation to the kitchen sink/exterior downpipe which had now been repaired. Whilst some minor electrical works had been carried out no proper electrical installation condition report had been exhibited. There was still significant water penetration and damage to the front of the Property and the windows and carpets had not been attended to. There was not a proper hardwired smoke detection system compliant with the relevant regulations and works were still required to the bedroom and bathroom doors.

It was apparent the Landlord had carried out no material works since the last extension and that there continued to be significant safety concerns regarding the condition of the Property in relation to smoke detection and electrical safety.

The re-inspection report (annexed to this decision for information) was circulated to both parties for comment. Neither party commented.

In the absence of any comment from either party the Committee required to consider how to progress this matter. The Committee had extended the period for the RSEO to be complied with three times. The Committee had highlighted to the Landlord that he could force access through the courts if required. There was no indication that the Landlord had availed himself of any of his rights. Nor was there any evidence at the current point that

the Tenant had been difficult. The Committee noted that the Tenant must have provided access at various points as some minor electrical works had been done and a more recent repair to the downpipe had taken place. There appeared to be no suggestion that there was an ongoing criminal case at the present time. Whilst the Landlord had submitted correspondence from time to time to the Committee he had never engaged with the Committee by attending at the Property or by attending the hearing. The Committee had specifically asked the Landlord to attend the hearing in July 2015 but he had failed to do so.

The Committee had, they felt, two options open to them. They could provide a further extension or they could determine that the Landlord had failed to comply with the terms of the RSEO.

On balance, the Committee was of the view that the Tenant had not been difficult in providing access. There was evidence that the Tenant had allowed access on at least two occasions yet there were still a number of jobs outstanding on the part of the Landlord. The Landlord had failed to interact with the Committee. The Committee had specified that the Landlord should utilise powers through the courts if he was having difficulty getting access to do the works. The Committee had highlighted in their last decision that they would expect to see evidence from the Landlord that he had tried to force the question of access. In light of the lack of any such information from the Landlord the Committee found, on balance, that the Tenant was not being difficult in providing access and that the Landlord had failed to implement the terms of the RSEO.

The Committee then considered what steps to take. In terms of Section 26(1) of the Act it was for the Committee to decide whether the Landlord had complied with an RSEO made by the Committee. In terms of sub section 2 where the Committee decides that a Landlord has failed to comply with an RSEO without reasonable excuse, the Committee must (a) serve notice of the failure on the Local Authority; (b) decide whether to make a Rent Relief Order ("RRO").

The Committee, after discussion, and for the reasons set out above determined that the Landlord had failed to comply with the RSEO. Accordingly the Committee was obliged to serve notice of the failure on the Local Authority and resolved to do so.

The Committee then decided whether or not to make an RRO. The Committee was of the view that the Landlord had failed to attend to the matter properly. There were significant safety concerns. The electrical system had not been certified as safe and there was a lack of a proper smoke detection system within the Property. Water penetration had been ongoing for some time at the front of the Property and was allowing damp to enter. This could be detrimental to the Tenant's health. The Landlord had provided no explanation or evidence as to why he had failed to comply with the RSEO following the last decision of the Committee in July 2015. In the circumstances the Committee was satisfied that it was appropriate to impose an RRO and determine that 40% would be an appropriate level. The Tenant's safety was at risk due to the lack of repairs carried out by the Landlord. 40% was a significant restriction on the Landlord's income from the Property and was a reflection of the seriousness of the matter.

The Committee also considered the terms of Section 28 of the Act. Sub section specifies that the Landlord who, without reasonable excuse, fails to comply with an RSEO commits an offence. There had been no explanation from the Landlord as to why he had not complied with the RSEO. The Committee had given him ample opportunity by way of the three extensions to attend to the works. There had clearly been an ongoing failure for a number of years to maintain the Property to the appropriate standard. The repairs required were not issues that would have arisen only recently. Accordingly, in the circumstances, the Committee was of the view that Section 28(1) had been breached and therefore also resolved to report the matter to the police for consideration for prosecution.

**Decision**

- 3. The Committee determined that in terms of the Act the Landlord had failed to comply with the RSEO without reasonable excuse. The Committee determined to serve a notice of failure to comply with the RSEO on the relevant Local Authority within which the Property was situated and to report the matter to the police for consideration for prosecution. The Committee was also satisfied that it was appropriate to grant an RRO at 40% in terms of the Act.**
4. The decision of the Committee was unanimous.

**Right of Appeal**

- 5. A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

**Effect of section 63**

6. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

E Miller

Signed ..... Date..... 15/12/15  
Chairperson



## PRHP Re-inspection report

**Property:** Property at 2/1, 60 Provost Road, Dundee, DD3 8AH

**Ref no:** PRHP/DD3/76/13

**Surveyor :** D. Charles Reid Thomas

**Access:** 3.30pm, 5<sup>th</sup> November 2015, attended by Charles Reid Thomas and MR Joseph Williamson (the tenant).

**RSEO:** works required by RSEO

(a) To carry out such works to the electrical installation and system within the Property as are required to allow the issue of an electrical installation condition report confirming that the Property meets the relevant regulations. Such works should include ensuring that the shower at the Property is in proper working order.

(b) To carry out such works of repair to the kitchen sink/external downpipe to ensure that the leak is repaired and that the repairing standard is met.

(c) To identify and remediate the cause of water penetration into the front elevation of the Property and to carry out any redecorative works caused by the remedial work.

(d) To repair the window in the bedroom to ensure that it meets the repairing standard.

(e) To provide new carpets to the Property for the bedroom and hall.

(f) To carry out such works of repair or replacement to the doors to the bedroom and bathroom sufficient to ensure that these doors can be opened and closed properly.

(g) To install a hardwired smoke detection system compliant with the relevant regulations.

**Works in RSEO undertaken:**

- (b) To carry out such works of repair to the kitchen sink/ exterior downpipe to ensure that the leak is repaired and that the repairing standard is met.

**Works in RSEO outstanding:**

- (a) To carry out such works to the electrical installation and system within the Property as are required to allow the issue of an electrical installation condition report confirming that the Property meets the relevant regulations. Such works should include ensuring that the shower at the Property is in proper working order.
- (c) To identify and remediate the cause of water penetration into the front elevation of the Property and to carry out any redecorative works caused by the remedial work.
- (d) To repair the window in the bedroom to ensure that it meets the repairing standard.
- (e) To provide new carpets to the Property for the bedroom and hall.
- (f) To carry out such works of repair or replacement to the doors to the bedroom and bathroom sufficient to ensure that these doors can be opened and closed properly.
- (g) To install a hardwired smoke detection system compliant with the relevant regulations

# Davidson & Robertson

RURAL

## Re-Inspection of 60 Provost Road, Dundee, DD3 8AH



Property Inspected – 5.11.15  
Weather – Wet and overcast

Downpipe leak fixed. Kitchen tap left running, no  
evidence of leak.



## Rent Relief Order

### Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/DD3/76/13

Re : Property at 2/1, 60 Provost Road, Dundee, DD3 8AH ((hereinafter referred to as "the house")

**The Parties:**

JOSEPH WILLIAMSON residing at 2/1, 60 Provost Road, Dundee, DD3 8AH ("the Tenant")

HARJIT SIDHU residing at 6 Muirfield Place, Dundee, DD3 8PR ("the Landlord")

#### NOTICE TO ("the Landlord")

Whereas in terms of their decision dated 18 December 2015, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Committee.

The Committee determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 40% of the rent which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under section 64 of the said Act.

**A landlord or a tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the Rent Relief Order will take effect 28 days after the date on which the appeal is abandoned or the decision is confirmed.

In witness whereof these presents type written on this and the preceding page(s) are executed by Ewan K Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 18 December 2015 before this witness:-

C Robertson

E Miller

witness

\_\_\_\_\_ chairman

~  
/ Claire Robertson  
Secretary  
Whitehall House  
33 Yeaman Shore  
Dundee  
DD1 4BJ